

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**NANCY JENKINS and THOMAS
JENKINS,**

Plaintiffs,

vs.

**WESTERN ILLINOIS TRANSPORTS,
INC. and LEE A. MARKERT,**

Defendants.

Case No. 4:05cv2012 SNL

ORDER

This is before the Court on Plaintiffs' Motion to Compel (#13), filed February 28, 2006. Plaintiffs requested answers to interrogatories and the production of documents from both Defendants on November 11, 2005. After receiving no response, Plaintiffs sent a letter to opposing counsel on February 6, 2006, requesting that Defendants comply with the discovery requests. Despite Plaintiffs' attempt at resolving these discovery issues, Defendants have yet to cooperate.

Defendants state that their responses to Plaintiffs' requests as to Lee A. Market are nearly complete and will be sent to Plaintiffs' counsel shortly. However, defense counsel states that Western Illinois Transports believes itself to be improperly joined and refuses to cooperate with the discovery process. If Western believes itself to be an improper party, it must file a motion to that effect. But as long as Western remains a party to this action, it will respond to Plaintiffs' discovery requests. Pursuant to Federal Rule of Civil Procedure 37(a)(4)(A), Western will pay the reasonable expenses

incurred by Plaintiffs in making this motion. In addition, if either Defendant fails to respond to these requests in a timely manner, it will be subject to sanctions, in accordance with Federal Rule of Civil Procedure 37(b).

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Motion to Compel (#13) is **GRANTED**. If either Defendant fails to respond to Plaintiffs' discovery requests on or before April 17, 2006, it will be subject to sanctions in the amount of three hundred dollars per day.

IT IS FURTHER ORDERED that Western will pay reasonable expenses incurred by Plaintiffs in making this motion, including their attorneys fees.

Dated this 20th day of March, 2006.

A handwritten signature in cursive script, reading "Stephen L. Limbaugh". The signature is written in dark ink and is positioned above a horizontal line.

SENIOR UNITED STATES DISTRICT JUDGE